

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION**

IN RE:
STEPHEN BRADLEY HALFERTY

CASE NO: 22-00101-5-DMW
CHAPTER 13

Debtor

OBJECTION TO CONFIRMATION

NOW COMES the Chapter 13 Trustee, and hereby moves for entry of an order denying confirmation of the Debtor's chapter 13 plan by finding it does not comply with the provisions of 11 U.S.C. §§ 1322 and or 1325. The basis for this objection is set forth below:

1. The plan is infeasible due to the filing of a claim on behalf of Internal Revenue Service in an amount greater than scheduled in the plan. The plan provides for payment of this claim through the Trustee, but the plan is not funded to pay this claim in full.
2. Upon information and belief, the Debtor has failed to file all applicable Federal, State, and local tax returns as required by 11 U.S.C. § 1308, and therefore has not complied with 11 U.S.C. § 1325(a)(9).
3. The Debtor has not provided the Trustee with a copy of the Federal income tax return required under applicable law, or a transcript of such return, for the most recent tax year ending immediately before the commencement of this case and for which a Federal income tax return was filed, as required by 11 U.S.C. § 521(e)(2)(i). The Trustee therefore cannot determine if the Debtor has complied with 11 U.S.C. § 1325(a)(9), by filing all applicable tax returns required by 11 U.S.C. § 1308.
4. The Debtor's § 341 Meeting of Creditors was conducted on June 6, 2022; however, it was not concluded and was held open by the Trustee pursuant to 11 U.S.C. § 1308(b)(1) to June 14, 2022, in order to allow the Debtor additional time to file tax returns. The Debtor has not filed a motion to continue the confirmation hearing scheduled in this case. The Trustee objects to confirmation of the plan under 11 U.S.C. § 1325(a)(9) because the Debtor has not filed all tax returns required by 11 U.S.C. § 1308.
5. The plan has not been proposed in good faith, as required by 11 U.S.C. § 1325(a)(3). The good faith issues arise with the Debtor's proposed treatment of the following claims in the plan:
 - a. The secured claim of Capital One Auto Finance (Court claim #3) in the amount of \$50,166.68, for a 2019 Dodge Ram 1500. The Debtor is proposing to pay this claim directly to the creditor, and the Retail Installment Sale Contract attached to the proof of claim indicates monthly contractual payments are in the amount of \$794.06, the contractual interest rate is 4.45%, and that there are approximately 68 months remaining on this loan obligation.

6. The Trustee is unable to determine if the plan provides that all of the Debtor's projected disposable income to be received in the applicable commitment period beginning on the date that the first payment is due under the plan will be applied to make payments to unsecured creditors under the plan because the Debtor has not provided the Trustee with the Debtor's Profit and Loss statement evidencing the Debtor's income.

WHEREFORE, based upon the foregoing, the Trustee respectfully requests that the Court deny confirmation of the plan, and for any other relief the Court deems just and proper.

Dated: June 8, 2022

/s/ John F. Logan

John F. Logan

CHAPTER 13 TRUSTEE

N.C. BAR NO. 12473

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CERTIFICATION OF SERVICE

I, Kristen McGowan, of PO Box 61039, Raleigh, NC 27661-1039, do certify:

That I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age, and

That I have this day served copies of the foregoing Objection to Confirmation on the parties listed below by depositing a copy of same in the United States mail bearing sufficient postage, or if such interested party is a Filing User, by serving such interested party by electronic transmission, pursuant to Local Rule 5005-4(9)(b).

DATED: June 08, 2022

/s/Kristen McGowan
Case Administrator

By U.S. Mail

DEBTOR
STEPHEN BRADLEY HALFERTY
1132 SHADOW LAKE DR.
RALEIGH, NC 27615

By CM/ECF:

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